

C O P Y

*in opinion*

11 F —

*See also opinion  
on lot 1 & 2 not  
attached herewith*

October 5, 1954

Miss Ruth G. Morgan  
Acting Labor Commissioner  
Star Building - Pleasant Street  
Concord, New Hampshire

Dear Miss Morgan:

This is in response to the question raised in the fourth paragraph of your memorandum of October 1. You stated that a certain employer has deducted a certain sum from the wages due one of his employees because certain work done by the employee was not correctly performed. You asked whether this procedure is permissible under Revised Laws, chapter 212, section 14, as amended by chapter 124 of the Laws of 1951, and, if so, whether it would be necessary for the employer to give notice to the employee of the change in practice.

Your attention is called to section 19 of said chapter 212 which provides that "There shall be no defense for failure to pay as required hereunder unless there shall have been an attachment of such wages by trustee process, or a valid assignment thereof, or a valid setoff against the same . . ."

It is the opinion of this office that if the employee in question negligently performed his work and the employer suffered monetary loss as a result, proper grounds for a setoff exist and the employer may withhold the alleged amount of damages.

The mere fact that contrary to his prior practice the employer now intends to hold the employee responsible for his negligent acts would not constitute a change in the wage scale. No notice need be given therefore.

Very truly yours,

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Elmer T. Bourque  
Law Assistant

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CONCORD, N.H.

ETB/aml